

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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WARNER BROS. ENTERTAINMENT INC. and
J.K. ROWLING,

Plaintiffs,

-against-

RDR BOOKS and DOES 1-10,

Defendants.
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Case No. 07-CV-9667 (RPP)

**DECLARATION OF DIANA BIRCHALL IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Diana Birchall, declare and state as follows:

1. I am a Story Analyst for Warner Bros. Entertainment Inc. ("Warner Bros."), one of the plaintiffs in this action. Except for the facts stated on information and belief, all of the facts set forth herein are known to me personally, and if called as a witness, I could and would testify competently thereto.
2. I have closely reviewed *The Harry Potter Lexicon* (the "Lexicon") in its entirety and have compared and contrasted the content of the Lexicon to the Harry Potter Books.
3. Based on my own thorough analysis of the Lexicon, it is evident that the Lexicon simply reorganizes and restates the *Harry Potter* story. It does not cite to any third party sources. In addition, the Lexicon does not attempt to analyze the *Harry Potter* characters, identify or comment on the themes from the Books, compare the Books to any other literary works or place the Series in any social context.

4. Instead, the Lexicon in effect retells the story set out in Ms. Rowling's seven books. The Lexicon employs three devices in order to achieve this effect: (1) detailed plot summaries, (2) extensive paraphrasing, and (3) verbatim quoting.

5. Many of the entries throughout the Lexicon consist of long, detailed prose summarizing extensive portions of the plot of the *Harry Potter* Books. For example, the entry for "Harry Potter," as set forth in **Exhibit A**, is over ten pages long and restates the story of the character's life, which in essence is a retelling of the entire Series. The entry on "Voldemort," as set forth in **Exhibit B**, is nine pages long and retells the story with respect to this character. The Lexicon dedicates six pages to retelling the story with respect "Severus Snape," as set forth in **Exhibit C**.

6. None of these entries contain any analysis or commentary. Rather, they are a straight recreation of the *Harry Potter* story line.

7. For other entries, the Lexicon makes use of extensive paraphrasing that is alarmingly similar to the original *Harry Potter* text, however, few citations are provided. For example, portions of the two-page entry concerning "Hogwarts School of Witchcraft and Wizardry" are taken almost word for word from the original text virtually without citation. Attached hereto as **Exhibit D** is a chart comparing the language from this entry to the corresponding *Harry Potter* text. The attached chart also demonstrates several, but by no means all, other instances where the language from the Lexicon closely parallels the exact language from *Harry Potter* Books. See **Exhibit D**.

8. Many of the entries quote verbatim lengthy portions of the *Harry Potter* Books. For example, the "Hogwarts' School Song" entry, as set forth in **Exhibit E**, quotes the song in its entirety. In addition, the "Sorting Hat" entry, as set forth in **Exhibit F**, quotes one of the Sorting

Hat songs in its entirety and the “His Eyes Are as Green As A Fresh Pickled Toad” entry, as set forth in **Exhibit G**, quotes the entire Valentine’s Day poem.

9. Other entries retell the *Harry Potter* story by simply quoting from the original text. Even with respect to entries that consist of only brief descriptions, instead of adding anything new or original, these entries simply quote the *Harry Potter* Books verbatim. For example, the “Dementors” entry, as set forth in **Exhibit H**, relies almost entirely on quotes from *Harry Potter and the Prisoner of Azkaban*. The same is true for the entry on “Hair-Care Products,” as set forth in **Exhibit I**, the “Entrance Hall” entry, as set forth in **Exhibit J**, the “Marcus Belby” entry, as set forth in **Exhibit K**, and the “Gobbledegook” entry, as set forth in **Exhibit L**.

10. The Lexicon also draws heavily from Ms. Rowling’s other books, *Fantastic Beasts and Where to Find Them* and *Quidditch Through the Ages*. Attached as **Exhibit M** are two charts comparing the language from the Lexicon to the text from *Fantastic Beasts and Where to Find Them* and *Quidditch Through the Ages*. The attached comparison charts demonstrate the large amount of material that is taken verbatim from these works, as well as the extensive plot summary and paraphrasing.

11. As my analysis shows, the Lexicon consists of detailed plot summary, extensive paraphrasing and verbatim quoting. These devices have the effect of simply retelling the seven **Harry Potter** Books, but in a different format and style.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 14, 2008, at Burbank, California.

Respectfully submitted,

By: *Diana Birchall*
Diana Birchall